

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DARREYLL T. THOMAS,

ORDER

Plaintiff,

v.

13-cv-597-wmc

MICHAEL REESE, *et al.*,

Defendants.

State inmate Darreyll T. Thomas filed this civil action pursuant to 42 U.S.C. § 1983, challenging the conditions of his confinement at the Dane County Jail. Specifically, Thomas's claims stem from an alleged use of force that occurred on July 28, 2012. On August 6, 2014, the court granted defendants' motion to dismiss on the grounds that Thomas failed to exhaust available administrative remedies before filing suit in compliance with 42 U.S.C. § 1997e(a). The court withheld judgment, however, allowing Thomas to move to reopen "if he presents evidence showing that he exhausted administrative remedies at the Dane County Jail."

Thomas has now filed a motion to reopen, but unfortunately he presents no evidence showing that he exhausted his administrative remedies. Indeed, Thomas concedes that he chose not to challenge the use of force by appearing at an administrative hearing offered as part of the remedy process at the Jail, bypassing an opportunity to raise the issues that form the basis of his complaint. Based on this record, Thomas demonstrate neither that he exhausted his administrative remedies as required by 42 U.S.C. § 1997e(a) nor that the administrative remedy process was unavailable to him. Accordingly, Thomas's motion to reopen this case will be denied.

ORDER

IT IS ORDERED that:

- 1) plaintiff Darreyl T. Thomas's motion to reopen (dkt. # 48) is DENIED;
and
- 2) the clerk's office will enter judgment in favor of defendants and close this case.

Entered this 2nd day of October, 2014.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge